

## FORM 26. Docketing Statement

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 16-1123Personal Audio, LLC

v.

Electronic Frontier Foundation

## DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing.

Name of the party you represent Personal Audio, LLC

Party is (select one)



Appellant/Petitioner



Cross-Appellant



Appellee/Respondent



Intervenor

Tribunal appealed from and Case No. Patent Trial and Appeal Board (IPR2014-00070)Date of Judgment/Order April 10, 2015 Type of Case Inter Partes ReviewRelief sought on appeal Reversal of PTAB's Final Written Decision

Relief awarded below (if damages, specify) \_\_\_\_\_

Determination of unpatentability of claims 31-35 of U.S. Patent No. 8,112,504

Briefly describe the judgment/order appealed from \_\_\_\_\_

On April 10, 2015 the PTAB issued a Final Written Decision holding that claims 31-35 of U.S. Patent No. 8,112,504 are unpatentable (Paper 41). On July 17, 2015, the PTAB denied a motion for rehearing on the matter (Paper 45).

**FORM 26. Docketing Statement (continued)**

Nature of judgment (select one)

- ☒ Final Judgment, 28 USC 1295
- ☐ Rule 54(b)
- ☐ Interlocutory Order (specify type) \_\_\_\_\_
- ☐ Other (explain; *see* Fed. Cir. R. 28(a)(5)) \_\_\_\_\_

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued \_\_\_\_\_

None.

Brief statement of the issues to be raised on appeal \_\_\_\_\_

The Patent Trial and Appeal Board's application and use of the broadest reasonable interpretation standard, claim construction, institution of Inter Partes review, determination of unpatentability of claims 31-35 of U.S. Patent No. 8,112,504 B2 (the '504 Patent) under 35 U.S.C. §§ 102 and 103, whether the Patrick/CBC disclosure is enabling, whether the United States Patent and Trademark Office exceeded its statutory authority under 35 U.S.C. § 314, whether actions to revoke or cancel a patent must be adjudicated in Article III Courts, whether the Inter Partes Review proceedings and Final Written Decision violates Personal Audio's Seventh Amendment rights, whether Personal Audio's constitutional rights were waived despite giving the PTO notice of the jury verdict, and any finding or determination supporting or related to those issues, as well as other issues decided adversely to patent owner Personal Audio in any orders, decisions, rulings and opinions.

Have there been discussions with other parties relating to settlement of this case?

☐ Yes ☒ No

If "yes," when were the last such discussions?

- ☐ Before the case was filed below?
- ☐ During the pendency of the case below?
- ☐ Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated?

☐ Yes ☒ No

If they were mediated, by whom? \_\_\_\_\_

**FORM 26. Docketing Statement (continued)**

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

If you answered no, explain why not \_\_\_\_\_

No resolution outside of Court can change the effect of the PTO's Final Written Decision. Accordingly, at this stage, there is nothing that can be resolved outside of the Court's rulings on the matter.

Provide any other information relevant to the inclusion of this case in the court's mediation program. \_\_\_\_\_

I certify that I filed an original and one copy of this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this 9<sup>th</sup> day of November, 2015

by: ECF  
(manner of service)

PAPPOOL S. CHAUHDARI /S/ PAPPOOL S. CHAUDHARI

\_\_\_\_\_  
Name of Counsel

\_\_\_\_\_  
Signature of Counsel

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**CERTIFICATE OF SERVICE**

Appellant Personal Audio, LLC certifies that Appellee Electronic Frontier Foundation has been served the foregoing document this 9th day of November, 2015 electronically through the Court's ECF system.

*/s/ Papool S. Chaudhari*

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Papool S. Chaudhari